IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24463 of 2004

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Between:

Nadipilli Veerunaidu, S/o.(late) Kanakayya Naidu,

Occ: F.P. Shop Dealer, F.P.Shop No.37,

Tummapala Village, Anakapalli Mandal,

Visakhapatnam District.

..... PETITIONER

AND

1. The Revenue Divisional Officer, Visakhapatnam.
2. The Mandal Revenue Officer, Anakapalli,

   Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the Proceedings issued by the 1st respondent vide R.C.No.4461/2004/C, Dt.10.12.2004 as illegal, unjust, arbitrary, violation of Principles of Natural Justice and against the provisions of the Andhra Pradesh Public Distribution System Control Order, 2001 and consequently direct the respondents to continue the petitioner as Fair Price Shop Dealer of Shop No.37 of Tummapala Village, Anakapalli Mandal, Visakhapatnam District.

Counsel for the Petitioner: MR.B.DEVANAND

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORAL ORDER:

Petitioner is a fair price shop dealer. His authorization was suspended by the first respondent through proceedings, dated 10.12.2004 on the ground that proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') have been initiated against the petitioner. This writ petition is filed alleging that the first respondent did not apply his mind to the facts of the case, and through initiation of proceedings under Section 6-A of the Act is one of the factors to be taken into account by the appointing authority for ordering suspension of authorization, independent application of mind has to be there. Reliance is placed upon a judgment of this Court in ***GUNDLA RAMA MURTHY V. THE DISTRICT COLLOCTOR, VIZIANAGARAM***.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The first respondent suspended the authorization of the petitioner through proceedings, dated 10-12-2004. The only basis for this is the report, dated 28-11-2004, said to have been submitted by the Deputy Tahsildar. It is observed that proceedings under Section 6-A of the Act are initiated before the Joint Collector, on the basis of the report of the Deputy Tahsildar. The first respondent did not refer to any act or omission on the part of the petitioner. On the other hand, he took the view that the allegations, referred to in the report, dated 28-11-2004, are proved. He has virtually rendered the result of the proceedings, be it those under Section 6-A of the Act, or the one to be initiated against the petitioner for cancellation of authorization, a foregone conclusion. Such a course of action is impermissible in law. The actual involvement of the petitioner has to be decided only after considering the explanation submitted by him.

Further, this Court held in **GUNDLA RAMA MURTHY's** case that initiation of proceedings under Section 6-A of the Act, by itself cannot entail in automatic suspension of the authorization and that the appointing authority has to apply its mind, independently, to the facts of the case. The same applies to the case on hand.

Hence, the Writ Petition is disposed of setting aside the order of suspension passed against the petitioner and that the petitioner shall be entitled to continue as fair price shop dealer. It is, however, made clear that this order shall be without prejudice to the proceedings that are said to have been initiated against the petitioner under

Section 6-A of the Act, or those that may be initiated by the first respondent for cancellation of the dealership. No order as to costs.

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L. Narasimha Reddy, J.

28th December, 2004

Note: CC in 3 days.

B/o.

js.

To

1. The Revenue Divisional Officer, Visakhapatnam.
2. The Mandal Revenue Officer, Anakapalli, Visakhapatnam.
3. Two CCs to G.P. for Civil Supplies, High Court of A.P., Buildings, Hyderabad (OUT)
4. Two CD Copies.